

**BRAZIL COMMON COUNCIL  
ORDINANCE NO. 12-2006**

**AN ORDINANCE AMENDING CHAPTER 90 OF THE BRAZIL CITY CODE OF  
ORDINANCES BY PLACING POLICIES FOR KENNEL AND CATTERY  
GUIDELINES AND TO INCREASE THE PENALTIES FOR VIOLATIONS OF THE  
ANIMAL CONTROL ORDINANCE**

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**NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY  
OF BRAZIL, INDIANA:**

**SECTION ONE, ANIMALS**

Chapter 90 of Title IX of the Brazil Code, more specifically §90.01 and §90.99 be and hereby are amended. Further, §90.18 through §90.22 are created for the purpose of establishing guidelines and policy governing kennels and catteries within the corporate limits of the City of Brazil, Indiana to read as follows:

**§90.01 Definitions**

For the purpose of this sub-chapter, the following definitions shall apply unless the context clearly indicates or requires different meaning.

- a. Altered Animal. An animal that has been operated on to prevent it from procreating.
- b. Animal. Any live, vertebrate creature, domestic or wild. For purposes of all subsections herein, "animal" shall include dogs and/or cats, or any other animal commonly kept as a pet.
- c. Animal Shelter. Any facility operated by a humane society or municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.
- d. Cattery. Any person or group of persons, partnership or corporation engaged in keeping more than one unaltered cat over the age of six months or more than six cats total.
- e. Humane Officer. Any person designated by the State of Indiana, a municipal government, or a humane society as a law enforcement officer, who is qualified to perform such duties under the laws of this state.
- f. Kennel. Any person, group of persons, partnership, or corporation engaged in the keeping of more than one unaltered dog over the age of six months or more than four dogs, or the

business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs.

g. Owner. Any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days.

h. Pet. Any animal kept for pleasure, and not denied by state law or ordinance of the city.

i. Public Nuisance. Any animal which:

1. Runs at large
2. Attacks other animals.
3. Molests passers by or passing vehicles.
4. Barks, whines, or howls in any excessive, continuous, or untimely fashion.
5. Damages private or public property.

#### **§90.18 Kennel/Cattery Permits**

- A) Any person owning or harboring more than one unaltered dog or one unaltered cat over the age of six months must apply for a kennel/cattery permit. At no time shall the number of dogs exceed four, number of cats exceeds six, or the total number of dogs and cats exceed six, at one residential property.
- B) Any person engaging in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling cats or dogs must apply for a kennel/cattery permit.
- C) Grandfather Clause. Animals owned or harbored and exceeding the ownership limits of this section at the time of passage of this law may be registered with the Office of the Clerk-Treasurer within 120 days of passage to be exempted from ownership limits. Animals owned or harbored in excess of these limits and not registered within this time frame will not be considered exempt.
- D) The Clay County Humane Society shall be exempt from the requirements of this Chapter and exempt from the requirements of Chapter 90 of Title IV of the Brazil Code of Ordinances, §§ 90.18-90.20 thereof.

#### **§90.19 Permit Fee for Grandfathered Owners of Kennel/Cattery Permit.**

Any person, group of persons, partnership or corporation who has applied to be exempt from the ownership requirements of §90.18 of this chapter shall pay an annual fee to the Clerk-

Treasurer of the City of Brazil, Indiana in the amount of Twenty-Five and 00/100 (\$25.00) Dollars.

**§90.20 Kennel/Cattery Permit Procedures and Fee.**

- A) Any person, group of persons, partnership or corporation shall submit and complete an application with the Clerk-Treasurer of the City of Brazil, Indiana. Except as provided in §90.18(C) (Grandfather Clause), the location of the kennel/cattery shall only be placed in/on property zoned for local business use.
- B) Any person, group of persons, partnership or corporation subject to this section, shall pay, except as provided in §90.18 (C) (Grandfather Clause), an application fee of One Hundred and 00/100 (\$100.00) Dollars annually to the Clerk-Treasurer of the City of Brazil, IN.

**§90.21 INSPECTIONS.**

- A) Any person, group of persons, partnership or corporation is subject to the requirements of §§90.18(A) (B), 90.20 or 90.22, shall be subject to the right of inspection by the Humane Officer for a minimum for one inspection and a maximum of four inspections annually, to determine compliance with said Sections of Chapter 90 of the Brazil Code of Ordinances. Said inspections may be made in accordance with the provisions of §90.21(C) below.
- B) Any person, group of persons, partnership or corporation is subject to the requirements of §§90.18 (C), 90.19, may be subject to the right of inspection by the Humane Officer for a minimum of one inspection annually, to determine compliance with said Sections of Chapter 90 of the Brazil Code of Ordinances. Said inspections may be made in accordance with the provisions of §90.21 (C) below.
- C) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter or when there is reasonable cause to believe that there exists in any building or upon any premises, any violation of the provisions of this chapter or state law, the Animal Control Officer or Health Officer or police officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this chapter or any state law; provided that:
  - (1) If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining reasons therefore; and
  - (2) If the property is unoccupied, the officer shall make a reasonable effort to locate the owner or other persons having control of the

property and request entry explaining the reasons therefore.

- D) In the event the Animal Control Officer, County Health or police officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefore. If entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after reasonable search, the officer shall have recourse to secure lawful entry and inspection of the property.

**§90.22 Appeal; Denial or Revocation of Permit.**

- A) Any person, group of persons, partnership or corporation that is subject to this Chapter, whose permit is revoked, shall have at least forty-eight (48) hours to correct any deficiencies before any revocation of permit.
- B) Any person, group of persons, partnership or corporation who is denied a permit or whose permit is revoked may appeal the denial or revocation to the Board of Public Works and Safety within 14 days of the date of the denial or revocation of the permit.
- C) All requests for appeals must be in writing and addressed to the Mayor of the City of Brazil; whereupon, the Mayor shall set the appeal for hearing within 30 days of the receipt of the written request.

**§90.99 Penalties.**

- A) Any person, group of persons, partnership, or corporation who violates any provisions of §§90.04 through 90.13 or §§90.15 through 90.17 of this Chapter, shall be subject to a civil penalty of Twenty Five and 00/100 (\$25.00) Dollars for the first offense and Fifty and 00/100 (\$50.00) Dollars for the second and all subsequent offenses.
- B) Any person, group of persons, partnership, or corporation, who violates any provisions of §§90.02, 90.03 or 90.14 of this Chapter, shall be subject to a civil penalty of Twenty Five and 00/100 (\$25.00) Dollars for the first offense for any altered animal and Fifty and 00/100 (\$50.00) Dollars for the second and all subsequent offenses. Likewise, any person, group of persons, partnership, or corporation who violates any provisions of §§90.02, 90.03, or 90.14 of this Chapter, shall be subject to a civil penalty of Forty and 00/100 (\$40.00) Dollars for the first offense for any unaltered animal and Eight and 00/100 (\$80.00) Dollars for all subsequent offenses. Any person, group of persons, partnership, or

corporation, may have all penalties for an unaltered animal or this Section waived one time during the life of the animal in violation of §§90.02, 90.03 or 90.14, if the owner chooses to have said animal altered within thirty (30) days of the alleged violation. This option is purely voluntary on the part of the owner of the animal at issue and it shall be the responsibility of the owner to provide the Humane Officer the appropriate documentation that the animal has been altered.

- C) Any person, group of persons, partnership, or corporation who violates any of the provisions of §§90.18 through 90.21 of this Chapter, shall be subject to a civil penalty of Two Hundred Fifty and 00/100 (\$250.00) Dollars for the first offense and Five Hundred and 00/100 (\$500.00) Dollars for the second and all subsequent offenses.
- D) Should any person violating any provision of this chapter not pay the designated civil penalty at the office of the Clerk-Treasurer within ten (10) days after being served with said citation, the violator shall be summoned into court.
- E) A separate offense shall be deemed committed on each day that a violation occurs or continues.


## **SECTION TWO. REPEAL OF CONFLICTING ORDINANCES.**

All Ordinances, or any parts thereof, previously enacted which are in conflict with the provisions of this Ordinance are hereby specifically repealed.

## **SECTION THREE. TIME OF EFFECT.**

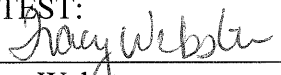
This Ordinance shall be in full force and effect from and after its passage, when it is signed by the presiding officer, approved by the Mayor, and published as required by law.

ORDAINED AND ESTABLISHED this 12 day of April, 2006.



Thomas Arthur  
Mayor, City of Brazil, Indiana

ATTEST:

  
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Tracy Webster,  
Clerk-Treasurer of the City of Brazil, Indiana

**MEMBERS OF THE COMMON COUNCIL**

**AYES:**

Martin J. Beasley  
Martin Beasley

A. Ann Bradshaw  
A. Ann Bradshaw

Patricia Heffner  
Patricia Heffner

William Lovett  
William Lovett

James Sheese  
James Sheese

**NAYS:**

\_\_\_\_\_  
Martin Beasley

\_\_\_\_\_  
A. Ann Bradshaw

\_\_\_\_\_  
Patricia Heffner

\_\_\_\_\_  
William Lovett

\_\_\_\_\_  
James Sheese

Presented by me to the Mayor of the City of Brazil, Indiana for his approval and signature  
on this 11 day of April, 2006.

Tracy Webster  
Tracy Webster,  
Clerk-Treasurer of the City of Brazil, Indiana

Approved and signed by me on the 12 day of April, 2006, at the hour of  
8:32 o'clock A.m.

Thomas Arthur  
Thomas Arthur, Mayor of the  
City of Brazil, Indiana